**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

FAO No. 1206 of 2006 (O&M)
Date of decision : 9.11.2006

Oriental Insurance Company Limited

....Appellant

Versus

Smt. Manjit Kaur & others

...Respondents

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.Jatin Talwar, Advocate
for the appellant.

Mr. Subhash Aggarwal, Advocate
for the respondents.

...

MAHESH GROVER, J.(Oral)

In the present appeal by the insurance company against the award of the Motor Accident Claims Tribunal, Ambala dated 1.12.2005 passed in MACT Petition No.31, the award of the Tribunal has been challenged on the questions of negligence and breach of policy.

In the accident which took place on 24.7.2003, one Bhupinder Singh, aged 40 years lost his life. The deceased was said to be standing at the corner of the road after having crossed it and was conversing with the driver of a JCB machine parked on the berm of the road when a truck bearing registration No.HR-55-A/1429 came from the opposite side and struck against the deceased who died instantaneously. The Tribunal awarded a sum of Rs.2,50,400/- to the

claimants on account of the death caused in the aforesaid accident and fastened the liability upon the insurance company which has now been assailed by way of present appeal.

Mr. Jatin Talwar, learned counsel for the appellant contended that the deceased was crossing the road and, therefore, he was equally guilty of having contributed to the accident and the liability should have been apportioned accordingly. That apart, it has been pleaded that the driving licence of the driver of the offending vehicle was not valid on the date of accident and on this count also the appellant could not have been held liable.

We have heard the learned counsel for the appellant and have perused the award.

The deceased was traveling in a truck with Jaswant Singh. He had got down from the truck and had crossed the road to converse with the driver of a JCB machine which was parked on the berm of the road. Said Jaswant Singh was therefore a natural witness and was examined as PW3. He testified that the deceased was standing near the JCB machine which was on the kutcha portion of the road when the truck bearing No.HR-55-A/1429 came from the opposite side and hit Bhupinder Singh on the spot. The presence of Jaswant Singh (PW3) is natural and his testimony conforms to the version of the accident as put forward by the claimants. Besides, the FIR was lodged promptly giving similar version. In view of this overwhelming evidence, the plea of the appellant regarding the accident having been caused due to the negligence of the deceased cannot be accepted.

That apart, the appellant has not been granted any permission under Section 170 of the Motor Vehicles Act to enable it to assail the award except on the breach of conditions of policy.

Regarding the second contention, the award reveals that no evidence had been led by the appellant to establish the invalidity and ineffectiveness of the driving licence.

For the foregoing reasons, we do not find any infirmity in the findings recorded by the Tribunal and the appeal being devoid of any merit is dismissed as such.

(UMA NATH SINGH)
JUDGE

(MAHESH GROVER)
JUDGE

November 9, 2006

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